

The field of the above-captioned '877 invention pertains to a filtering face mask that employs an exhalation valve. A filtering face mask is worn over the nose and mouth of a person for filtering contaminants that may be present in the ambient air. Filtering face masks commonly employ exhalation valves to allow warm, moist, exhaled air to be rapidly purged from the mask interior. The exhalation valves are used to improve wearer comfort. These valves generally operate at normal room temperatures and pressures.

The field of endeavor for filtering face mask is very different from the field of endeavor of a reed valve that is used in a two-cycle engine. Exhalation valves for respirators operate under very different conditions from valves that are used in two-cycle engines and require notably different design parameters. The valve that is described in McKim has very rapid opening and closing requirements (thousands of openings and closings per minute) and operates under temperatures and pressures that differ substantially from the requirements of exhalation valves, which open and close under the much slower pace of a wearer's breathing and under temperatures and pressures that tend to vary only from the ambient to that exhibited by the wearer's exhaled air. Thus, persons of ordinary skill in the field of designing filtering face masks, to the best of my knowledge and experience, do not find valves for two-cycle engines to be in their field of endeavor and therefore do not consult documents that describe valves for these engines when developing new respiratory products.

Bowers' Affidavit, paragraphs 11-13 (Exhibit B). Another person skilled in the field of exhalation valves for filtering face masks, Frank Fabin, who has worked on one design team and led another design team in the development of a new exhalation valve, stated the following with respect to McKim:

My review of the McKim patent reveals a curved seat reed valve that is suitable for use in high rpm two-cycle engines. The reed valve comprises a thin, normally flat, single thickness, springy, sheet material, which, when relieved of external stresses will lie flat, but which is flexed lengthwise to define a curve. The reed valve is disclosed to be made of a spring sheet material, such as, for example, shim stock. The reed valve is disclosed to bear throughout its length against a valve seat, with the seating bias at the free end of the reed being as great as, or greater than, that throughout the remainder of the reed. The reed valve is indicated to be designed to seat quickly, effectively, and without float or bounce after each opening. The patent indicates that the reed valve is adaptable for use within an extremely high-speed engine, for example, one that will turn at a speed on the order of 10,000 or 12,000 revolutions per minute or at more modest speeds of 5,000 to 6,000 rpms.

In my approximately 24 years of working in occupational health, I have not — nor am I aware of another person who works in this field who has — consulted a reference in the reed valve art for gasoline engines to obtain solutions to problems encountered in developing exhalation valves that are used on filtering face masks.